

# **Exhibit 2**

## **Plaintiff's Deposition Transcript Excerpts**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

-----x

MICHAEL ESTRADA, individually  
and on behalf of others  
similarly situated,

Plaintiff,

vs.

CIVIL ACTION NO.: 12-604

MAGUIRE INSURANCE AGENCY,  
INC.,

ECF CASE

Defendant.

-----x

DATE: November 26, 2012

TIME: 9:56 a.m.

Deposition of:

MICHAEL ESTRADA

called for oral examination by counsel for  
Defendant, pursuant to Notice, held at the  
office of CONRAD, O'BRIEN, GELLMAN & ROHN, 1500 Market  
Street, Centre Square, West Tower, Suite 3900,  
Philadelphia, Pennsylvania, before CORINNE J. BLAIR, a  
CRR, CCR, RPR, CLR, of Capital Reporting Company, and  
a Notary Public of the Commonwealth of Pennsylvania.

<p style="text-align: right;">38</p> <p>1 M. ESTRADA</p> <p>2 Q And you would also be responsible for</p> <p>3 talking to the insured?</p> <p>4 A Yes.</p> <p>5 Q And you would also be responsible for</p> <p>6 making a determination as to liability?</p> <p>7 A Yes.</p> <p>8 Q And you'd also be responsible for getting</p> <p>9 an appraiser -- an appraisal, if one needed to be</p> <p>10 gotten?</p> <p>11 A Yes.</p> <p>12 Q Are you familiar with the concept of</p> <p>13 comparative negligence?</p> <p>14 A Yes.</p> <p>15 Q And what does that mean in terms of</p> <p>16 resolving automobile claims?</p> <p>17 A Um, usually it's if both parties played</p> <p>18 some part of the accident, you would determine,</p> <p>19 percentage-wise, who was more at fault and who was</p> <p>20 less at fault. And I guess a percentage of the</p> <p>21 damages would be paid, as opposed to a hundred</p> <p>22 percent of it.</p> <p>23 Q And were you responsible for determining</p> <p>24 percentages in comparative negligence jurisdictions?</p> <p>25 A Um, if I had some.</p>	<p style="text-align: right;">40</p> <p>1 M. ESTRADA</p> <p>2 Q And you were licensed in Florida; is that</p> <p>3 right?</p> <p>4 A Correct.</p> <p>5 Q Why?</p> <p>6 A I don't know. They told us to get</p> <p>7 licensed in Florida.</p> <p>8 Q Can you handle claims in Florida without a</p> <p>9 license?</p> <p>10 A Not that I'm aware of, no.</p> <p>11 Q Did any of the other jurisdictions that</p> <p>12 you were responsible for require a license?</p> <p>13 A Not that I'm aware of.</p> <p>14 Q Now, in terms of Rodger Terry's team, they</p> <p>15 were responsible for different states; is that</p> <p>16 correct?</p> <p>17 A Yes.</p> <p>18 Q And do you know what states those were?</p> <p>19 A No.</p> <p>20 Q And of the states that Rodger Terry's team</p> <p>21 was responsible for, which of those states required</p> <p>22 licenses?</p> <p>23 A I have no idea.</p> <p>24 Q Which of those states had comparative</p> <p>25 negligence statutes?</p>
<p style="text-align: right;">39</p> <p>1 M. ESTRADA</p> <p>2 Q Well, which of the jurisdictions that you</p> <p>3 were responsible for were comparative negligence</p> <p>4 jurisdictions?</p> <p>5 A I don't recall.</p> <p>6 Q But you're aware that some of them were?</p> <p>7 A Yes.</p> <p>8 Q Okay. And as to the ones that were part</p> <p>9 of your duties and responsibilities, were one, to</p> <p>10 determine that it was a comparative negligence</p> <p>11 jurisdiction; correct?</p> <p>12 A Yes.</p> <p>13 Q And then once you determined that it was a</p> <p>14 comparative jurisdiction, then you would have to</p> <p>15 apportion percentages of fault; correct?</p> <p>16 A Yes.</p> <p>17 Q And that would impact how much ultimately</p> <p>18 would get paid; correct?</p> <p>19 A Yes.</p> <p>20 Q Okay. Now, going back to the</p> <p>21 jurisdictions that you were responsible for, was</p> <p>22 Texas one of them?</p> <p>23 A No.</p> <p>24 Q Florida was one of them?</p> <p>25 A Yes.</p>	<p style="text-align: right;">41</p> <p>1 M. ESTRADA</p> <p>2 A I have no idea. I really don't know which</p> <p>3 states they handled.</p> <p>4 Q Did you have to take a test to get</p> <p>5 licensed in Florida?</p> <p>6 A In Florida, no.</p> <p>7 Q You said you're also licensed in Texas?</p> <p>8 A Mm-hmm.</p> <p>9 Q I'm sorry. You have to answer yes or no.</p> <p>10 A Yes, I'm sorry.</p> <p>11 Q Do you have to take a test to get licensed</p> <p>12 in Texas?</p> <p>13 A Yes.</p> <p>14 Q And what kinds of things were you tested</p> <p>15 on?</p> <p>16 A It's been so many years ago. I can't</p> <p>17 remember what -- about coverage. You know, there</p> <p>18 had to be coverage in order for there to be a claim,</p> <p>19 and just different questions.</p> <p>20 Q And we'll get back to coverage in a</p> <p>21 minute. But you mentioned that one of the</p> <p>22 jurisdictions that you were responsible for was</p> <p>23 California?</p> <p>24 A Yes.</p> <p>25 Q Did you have to be trained in California?</p>

<p style="text-align: right;">42</p> <p>1 M. ESTRADA</p> <p>2 A No. Well, I was never trained in --</p> <p>3 Q You were never trained.</p> <p>4 Have you ever heard of Grundy claims?</p> <p>5 A No.</p> <p>6 Q So you were never asked to handle a Grundy</p> <p>7 claim when you were at Philadelphia?</p> <p>8 A I have never heard that. I have no idea</p> <p>9 what that is. I'm sorry.</p> <p>10 Q Did you have a certain amount of authority</p> <p>11 for which you could settle claims?</p> <p>12 A We were told ten thousand dollar limit.</p> <p>13 Q Who told you that?</p> <p>14 A Mona and Rodger.</p> <p>15 Q And when you say "we were told," she told</p> <p>16 you that your limit was \$10,000?</p> <p>17 A Yes.</p> <p>18 Q Did she tell you how she arrived at</p> <p>19 \$10,000?</p> <p>20 A No.</p> <p>21 Q Did she tell you how the \$10,000 was set?</p> <p>22 A No.</p> <p>23 Q Did you have any role in setting the</p> <p>24 authority for any of the other claims examiners --</p> <p>25 A No.</p>	<p style="text-align: right;">44</p> <p>1 M. ESTRADA</p> <p>2 A I've never heard of it until I went to</p> <p>3 Philadelphia and I was interviewing. They told me</p> <p>4 it would be for the Fast Track group. They just</p> <p>5 started it there in the Addison office and Mona was</p> <p>6 recently promoted to be a supervisor and that was</p> <p>7 going to be her group.</p> <p>8 Q And did she supervise claims examiners</p> <p>9 that handled claims other than Fast Track claims?</p> <p>10 A No.</p> <p>11 Q Are you sure?</p> <p>12 A As far as I know, yes, I'm sure.</p> <p>13 Q Do you know anything about the background</p> <p>14 and experience of any of the other claims examiners</p> <p>15 that worked for Mona during the time that you were</p> <p>16 there?</p> <p>17 A Just from speaking to them, how many years</p> <p>18 they've been in the business of handling claims.</p> <p>19 Q Do you know anything about what the</p> <p>20 authority limit was for any of the other claims</p> <p>21 examiners?</p> <p>22 A No. No, I didn't ask them that.</p> <p>23 Q So they could have had more or less</p> <p>24 authority than you; correct?</p> <p>25 A Yes.</p>
<p style="text-align: right;">43</p> <p>1 M. ESTRADA</p> <p>2 Q -- in the office?</p> <p>3 A I'm sorry. No.</p> <p>4 Q Did you have a role in setting the</p> <p>5 authority for any of the other claims examiners in</p> <p>6 any of the other offices?</p> <p>7 A No.</p> <p>8 Q Do you know how many other offices, if</p> <p>9 any, had claims examiners that handled Fast Track</p> <p>10 claims?</p> <p>11 A I just know that Philadelphia's office had</p> <p>12 Fast Track claims examiners there.</p> <p>13 Q And how do you know that?</p> <p>14 A From the list of -- that we've had of all</p> <p>15 the employees. It would say "Fast Track."</p> <p>16 Q And did any claims examiners in</p> <p>17 Philadelphia handle personal injury claims?</p> <p>18 A No. Not that I'm aware of.</p> <p>19 Q It's possible that they did and you might</p> <p>20 not know?</p> <p>21 A Correct.</p> <p>22 Q Have you ever talked to any of the claims</p> <p>23 examiners in Philadelphia about what they did?</p> <p>24 A No.</p> <p>25 Q Who told you about the term "Fast Track"?</p>	<p style="text-align: right;">45</p> <p>1 M. ESTRADA</p> <p>2 Q Do you know who determines how much the</p> <p>3 settlement authority or how much authority a</p> <p>4 particular claims examiner has?</p> <p>5 A No.</p> <p>6 Q Do you know what the factors are that go</p> <p>7 into making that determination?</p> <p>8 A No.</p> <p>9 Q Let's talk about what you did when a claim</p> <p>10 would come in.</p> <p>11 First of all, where would you get the</p> <p>12 claim from?</p> <p>13 A It would come into our Image Right system.</p> <p>14 Come in as a task.</p> <p>15 Q Well, who assigned a particular claim to</p> <p>16 you?</p> <p>17 A Home office.</p> <p>18 Q And when you say your Image Right system,</p> <p>19 what do you mean by that?</p> <p>20 A It's a program where scanned items are</p> <p>21 stored. It holds electronic files as well as</p> <p>22 scanned items.</p> <p>23 Mail also goes into that same system.</p> <p>24 Q Is it essentially an electronic storage</p> <p>25 system?</p>

<p style="text-align: right;">54</p> <p>1 M. ESTRADA</p> <p>2 So if you went into Image Right, you</p> <p>3 would see if a new claim had been assigned to you?</p> <p>4 A Yes.</p> <p>5 Q And do you know what -- what criteria was</p> <p>6 used in determining who would get a particular</p> <p>7 claim?</p> <p>8 A If it was a simple claim, it would go to</p> <p>9 Fast Track. If it had bodily injury, it would go to</p> <p>10 a different group. Just depending on what group</p> <p>11 handles which types of accidents.</p> <p>12 Q Within the groups, though, do you know who</p> <p>13 decided which claims examiner got what claim?</p> <p>14 A No.</p> <p>15 Q And at least with regard to claims that</p> <p>16 you got, you never got claims for rental car damage;</p> <p>17 correct?</p> <p>18 A Correct.</p> <p>19 Q And no Grundy claims; you've never heard</p> <p>20 of that?</p> <p>21 A Yeah.</p> <p>22 Q And the claims that you got were limited</p> <p>23 to certain jurisdictions?</p> <p>24 A Yes.</p> <p>25 Q And your testimony is that you did or did</p>	<p style="text-align: right;">56</p> <p>1 M. ESTRADA</p> <p>2 A Correct.</p> <p>3 Q And why was that important?</p> <p>4 A Because I only handle specific states.</p> <p>5 Q And within the states that you handled,</p> <p>6 did it make a difference what state the claim</p> <p>7 occurred in?</p> <p>8 A I'm sorry. I don't understand your</p> <p>9 question.</p> <p>10 Q If it fell within one of the states that</p> <p>11 you were responsible for, what, if anything, did you</p> <p>12 need to know about the law in that state for</p> <p>13 insurance?</p> <p>14 A Oh, I guess what laws that they had for</p> <p>15 traffic accidents or -- the traffic laws.</p> <p>16 Q And that was something that you would look</p> <p>17 up?</p> <p>18 A Yes. Sometimes. When I needed to.</p> <p>19 Q Okay. And why would you be looking that</p> <p>20 up?</p> <p>21 A It depends on the accident. You know, if</p> <p>22 it was something that I wasn't sure of, you know,</p> <p>23 who was at fault, we'd look up the -- I guess the</p> <p>24 driving handbook and see what it -- for that state</p> <p>25 and see what it says about that particular scenario.</p>
<p style="text-align: right;">55</p> <p>1 M. ESTRADA</p> <p>2 not have responsibility for claims in Texas?</p> <p>3 A Did not.</p> <p>4 Q Did not.</p> <p>5 So when you would get a new claim,</p> <p>6 what is the first thing that you would do?</p> <p>7 A I would open it up and see what state it</p> <p>8 was in, just to confirm that it was one that my --</p> <p>9 Q That it was what?</p> <p>10 A -- group handled.</p> <p>11 Oh, to confirm that it was one that I</p> <p>12 should be handling.</p> <p>13 If there was any bodily injury on it,</p> <p>14 I'd send it to my supervisor to send back to home</p> <p>15 office to be reassigned.</p> <p>16 Q Okay. So you would open up the claim.</p> <p>17 And what would you see when you opened it up?</p> <p>18 A A Cord (ph) form. And it would give you</p> <p>19 the insurance information, the claim date, the city,</p> <p>20 state, location of where the accident happened.</p> <p>21 Give a description of the accident.</p> <p>22 Q Now, you said you looked to see what state</p> <p>23 it was in.</p> <p>24 Was that what state the accident</p> <p>25 happened in or --</p>	<p style="text-align: right;">57</p> <p>1 M. ESTRADA</p> <p>2 Q So you would determine -- if you felt</p> <p>3 unsure, you would determine whether you needed to</p> <p>4 consult the driving handbook for a particular state?</p> <p>5 A Right.</p> <p>6 Q And what would you be looking for in the</p> <p>7 driving handbook?</p> <p>8 A For that scenario.</p> <p>9 Q When you say "for that scenario," can you</p> <p>10 explain to me what you mean?</p> <p>11 A Honestly, um, I can't think of an example.</p> <p>12 Q Were you looking to see if it was a</p> <p>13 comparative negligence state?</p> <p>14 A No. No. Looking to see if -- it hardly</p> <p>15 ever happened to me. That was something extremely</p> <p>16 rare, but sometimes you weren't sure if the party</p> <p>17 was at fault, because some states are different as</p> <p>18 far as their lines or -- I don't know. It's just --</p> <p>19 I'm trying to think of an example. I'm sorry. You</p> <p>20 got me at a blank right now.</p> <p>21 Q So one of the things that you had to do</p> <p>22 initially when you would get a new claim is you had</p> <p>23 to determine who was at fault; is that right?</p> <p>24 A Yes. Yes. One of the things, yes.</p> <p>25 Q Okay. So one of the things. And so in</p>

<p style="text-align: right;">58</p> <p>1 M. ESTRADA</p> <p>2 order to do that, there were times when you might</p> <p>3 not be familiar with the law in a particular state</p> <p>4 and you had to go look it up to see who would be --</p> <p>5 who's liable in the situation that you're presented</p> <p>6 with?</p> <p>7 A On rare occasion. I mean, normally it was</p> <p>8 parking lot accidents. Insured backed into a parked</p> <p>9 car.</p> <p>10 Q So normally you knew?</p> <p>11 A Yeah. Yeah. Because it was in Fast</p> <p>12 Track. I mean, it was mostly quick claims that --</p> <p>13 simple accidents.</p> <p>14 Q Okay. But there were times when you</p> <p>15 didn't know; is that right?</p> <p>16 A There were occasions, yeah, that a claim</p> <p>17 would come up. If I wasn't sure, I would usually</p> <p>18 ask my supervisor. She's more knowledgeable and</p> <p>19 more experienced.</p> <p>20 Q But you could ask your supervisor or you</p> <p>21 could consult the driving manual --</p> <p>22 A Yes.</p> <p>23 Q -- for the particular state; correct?</p> <p>24 A Yes.</p> <p>25 Q And that was a decision that you made,</p>	<p style="text-align: right;">60</p> <p>1 M. ESTRADA</p> <p>2 A Correct.</p> <p>3 Q And most times the damage was small?</p> <p>4 A Yes.</p> <p>5 Q Is that right?</p> <p>6 And part of what you had to determine</p> <p>7 is how much the damage was; correct?</p> <p>8 A No. The appraiser would do that.</p> <p>9 Q Well, in every situation, were you</p> <p>10 supposed to get an appraiser?</p> <p>11 A Absolutely.</p> <p>12 Q Even if it was under \$2,000?</p> <p>13 A Absolutely.</p> <p>14 Q And so it's your testimony here today that</p> <p>15 you always got an appraiser?</p> <p>16 A I always got an estimate.</p> <p>17 Q You always got an estimate?</p> <p>18 A Yeah. If it was under a couple of</p> <p>19 thousand, then we were allowed to have the insured</p> <p>20 or the claimant get an estimate from a local body</p> <p>21 shop.</p> <p>22 Q Okay. So the claim comes in. You would</p> <p>23 check to see if there was coverage; correct?</p> <p>24 A Yes.</p> <p>25 Q Okay. And then you would check to see if</p>
<p style="text-align: right;">59</p> <p>1 M. ESTRADA</p> <p>2 right?</p> <p>3 A Yes.</p> <p>4 Q Now, you were talking about the types of</p> <p>5 accidents.</p> <p>6 Most of the accidents that you</p> <p>7 handled were accidents that were worth about how</p> <p>8 much money?</p> <p>9 A A couple thousand; three, four, 5,000.</p> <p>10 Q Small, right?</p> <p>11 A Yes.</p> <p>12 Q Okay. Can you give me a sense of what</p> <p>13 kinds of things you'd be handling?</p> <p>14 A As?</p> <p>15 Q You said a parking lot accident.</p> <p>16 Somebody --</p> <p>17 A Insured backed into a parked vehicle. Um,</p> <p>18 normally we hit a parked car.</p> <p>19 Q So normally either your person hit a</p> <p>20 parked car or somebody hit your insured?</p> <p>21 A Correct.</p> <p>22 Q Or how about if somebody broke into a car?</p> <p>23 A Yes.</p> <p>24 Q So there'd be -- it all centered on damage</p> <p>25 to the car?</p>	<p style="text-align: right;">61</p> <p>1 M. ESTRADA</p> <p>2 there was liability?</p> <p>3 A Yes.</p> <p>4 Q Okay. And then you said that -- would you</p> <p>5 call the insured?</p> <p>6 A Yes.</p> <p>7 Q And why were you calling the insured?</p> <p>8 A To get the statement from the driver on</p> <p>9 what happened. Usually, they say I backed into a</p> <p>10 vehicle. You know, whatever happened in the</p> <p>11 accident.</p> <p>12 Q Did you ever have situations where the</p> <p>13 insured said it wasn't their fault?</p> <p>14 A Yes.</p> <p>15 Q And how often would that happen?</p> <p>16 A On occasion.</p> <p>17 Q And what happened; what were you supposed</p> <p>18 to do then?</p> <p>19 A I'd talk to the claimant and see their</p> <p>20 side of the story. A lot of times there's a police</p> <p>21 report, which we would go by that, the police</p> <p>22 report. Being that it was a commercial insurance, a</p> <p>23 lot of the companies made sure that the drivers</p> <p>24 always got a police report, so that was really</p> <p>25 helpful.</p>

<p style="text-align: right;">62</p> <p>1 M. ESTRADA</p> <p>2 Q Okay. So you would talk to your insured;</p> <p>3 if your insured said it wasn't their fault, then you</p> <p>4 might reach out and talk to the other party?</p> <p>5 A Yeah.</p> <p>6 Q And what would you do if there was a</p> <p>7 disagreement between two parties about what</p> <p>8 happened?</p> <p>9 A Conflicting statements and there's no</p> <p>10 independent witnesses, then we would side with our</p> <p>11 insured.</p> <p>12 Q Okay. And you made the decision to side</p> <p>13 with your insured?</p> <p>14 A That's just something we're supposed to</p> <p>15 do.</p> <p>16 Q Well, did you ever have any situations</p> <p>17 where you felt that the person, the non-insured, had</p> <p>18 the more credible story?</p> <p>19 A No. If there's conflicting statements and</p> <p>20 no evidence to confirm that my insured was at fault,</p> <p>21 I would side with my insured.</p> <p>22 Q Now, when you say "no evidence," what kind</p> <p>23 of evidence?</p> <p>24 A Witnesses. If the damages didn't support</p> <p>25 what the insured claimed.</p>	<p style="text-align: right;">64</p> <p>1 M. ESTRADA</p> <p>2 A If the police report says this person was</p> <p>3 at fault, which a lot of times it does.</p> <p>4 Q So you would follow the police report?</p> <p>5 A Correct.</p> <p>6 Q So if you have conflicting statements,</p> <p>7 then you would ask whether there was a police</p> <p>8 report?</p> <p>9 A No. I'd ask that regardless.</p> <p>10 Q Okay. So you always ask for the police</p> <p>11 report?</p> <p>12 A If there's a police report.</p> <p>13 Q Okay. You said that you would ask if</p> <p>14 there had been independent witnesses. Who would you</p> <p>15 ask that question of?</p> <p>16 A Both the insured and the claimant.</p> <p>17 Q And what happens if there are independent</p> <p>18 witnesses?</p> <p>19 A I would contact them and see what they</p> <p>20 saw.</p> <p>21 Q Okay. So then you'd talk to the</p> <p>22 independent witnesses?</p> <p>23 A Correct.</p> <p>24 Q So who decides in that situation if the --</p> <p>25 once you talked to the independent witness, what do</p>
<p style="text-align: right;">63</p> <p>1 M. ESTRADA</p> <p>2 Q So if you have conflicting statements,</p> <p>3 then you'd have to determine whether or not there's</p> <p>4 other evidence; is that right?</p> <p>5 A Well, hopefully by then, you know, you</p> <p>6 know all the evidence.</p> <p>7 Q But you would -- I assume you have to get</p> <p>8 the evidence or look for the evidence; correct?</p> <p>9 A Yeah. As in evidence, was there any</p> <p>10 witnesses.</p> <p>11 Q Okay.</p> <p>12 A Independent witness.</p> <p>13 Q And how would you find out if there was</p> <p>14 any witnesses?</p> <p>15 A Asking both the driver and the claimant if</p> <p>16 there were any independent witnesses. Was there a</p> <p>17 police report done. If none exists, then I would</p> <p>18 side with my insured, if the statements were</p> <p>19 conflicting.</p> <p>20 Q Okay. Let's go one step at a time then.</p> <p>21 So if there's a police report, what</p> <p>22 would you do?</p> <p>23 A I'd go by the police report.</p> <p>24 Q You say you'd go by the police report.</p> <p>25 What does that mean?</p>	<p style="text-align: right;">65</p> <p>1 M. ESTRADA</p> <p>2 you do then?</p> <p>3 A Whichever they corroborate whose story,</p> <p>4 that's who I go with.</p> <p>5 If the witness says the insured</p> <p>6 backed into the claimant's car, then -- and the</p> <p>7 claimant is saying that the insured backed into his</p> <p>8 car, you got two people saying the same thing, then</p> <p>9 that's what you go with.</p> <p>10 Q So you'd make a judgment that if two</p> <p>11 people --</p> <p>12 A Versus the one, correct.</p> <p>13 Q And that in your judgment is you believe</p> <p>14 the two people?</p> <p>15 A Yes.</p> <p>16 Q Okay. Now, you said before that sometimes</p> <p>17 the damage didn't support the determination.</p> <p>18 A Didn't support the --</p> <p>19 Q The story. Okay. Yeah, what do you mean</p> <p>20 by that?</p> <p>21 A Just, I've had people, like -- I had an</p> <p>22 insured that was parked and she said somebody backed</p> <p>23 into her car, but then she's claiming damages to the</p> <p>24 front of the vehicle.</p> <p>25 The other side is like, well, I mean,</p>

<p style="text-align: right;">66</p> <p>1 M. ESTRADA</p> <p>2 you can tell where the car was backed into, but</p> <p>3 you're claiming these damages. It just -- it</p> <p>4 doesn't make sense.</p> <p>5 Q So in that situation you made a</p> <p>6 determination that the insured wasn't telling the</p> <p>7 truth?</p> <p>8 A Correct.</p> <p>9 Q Okay. And you would deny coverage based</p> <p>10 on that?</p> <p>11 A No. I wouldn't deny coverage. I wouldn't</p> <p>12 pay for the damages that didn't support --</p> <p>13 Q Okay. So then you'd have to decide which</p> <p>14 damages, if any, actually supported the claim?</p> <p>15 A Yeah. And the appraiser would usually</p> <p>16 tell us, "Well, they're trying to say this damage</p> <p>17 was also caused in that accident, but I don't</p> <p>18 believe that it could have been, judging by that."</p> <p>19 Because they're the ones -- the appraiser's the ones</p> <p>20 looking at the vehicle, and they can tell, you know,</p> <p>21 if a vehicle was hit, by their experience, and say,</p> <p>22 it's not possible to cause that other damage.</p> <p>23 Q So the appraiser comes back and tells you</p> <p>24 that the damage is in a place that does make sense,</p> <p>25 in terms of the story, and then you determine, okay,</p>	<p style="text-align: right;">68</p> <p>1 M. ESTRADA</p> <p>2 Mona?</p> <p>3 A The estimates amounts; how the accident</p> <p>4 happened; you know, what I believe to be how the</p> <p>5 accident happened. I would ask her what she</p> <p>6 thought.</p> <p>7 Q So you would go to Mona and say, this is</p> <p>8 what I believe happened, and would you tell her who</p> <p>9 you thought was at fault and how much and why?</p> <p>10 A Yes.</p> <p>11 Q So you'd make a recommendation to her?</p> <p>12 A Correct.</p> <p>13 Q Okay. And did she always adopt your</p> <p>14 recommendations?</p> <p>15 A No. No. Not always.</p> <p>16 Q And can you think of any examples, sitting</p> <p>17 here today, when she didn't accept your</p> <p>18 recommendation?</p> <p>19 A Um, it's not that she just flat out</p> <p>20 didn't. She just thought, well, it's not worth it.</p> <p>21 Just go ahead and pay the whole claim.</p> <p>22 Q And how many times did that happen?</p> <p>23 A I couldn't tell you.</p> <p>24 Q More than five?</p> <p>25 A Yes. I'm sure.</p>
<p style="text-align: right;">67</p> <p>1 M. ESTRADA</p> <p>2 I'm going to go with what the appraiser says?</p> <p>3 A Correct.</p> <p>4 Q Okay. Have you had situations where the</p> <p>5 claimant is more credible, tells a story that makes</p> <p>6 more sense than what your insured is telling you?</p> <p>7 A Not that I recall, no.</p> <p>8 Q Um, usually it's by, you know, police</p> <p>9 report, if there is one, but if -- the only time I</p> <p>10 would think that would happen if the damages that</p> <p>11 the insured's saying just didn't match, if it just</p> <p>12 didn't make sense like that, then, you know, yeah, I</p> <p>13 think the claimant probably would be more credible.</p> <p>14 Q And then you'd side with the claimant --</p> <p>15 A Yes.</p> <p>16 Q -- or you'd decide that the claimant was</p> <p>17 more credible?</p> <p>18 A Yes.</p> <p>19 Q Okay. Now, what if they both had some</p> <p>20 degree of fault; what did you do then?</p> <p>21 A I would usually ask Mona, see what she</p> <p>22 thought. See if she wanted comparative negligence</p> <p>23 on that.</p> <p>24 Q You say you usually ask Mona.</p> <p>25 What information would you bring to</p>	<p style="text-align: right;">69</p> <p>1 M. ESTRADA</p> <p>2 Q How many claims did you handle that were</p> <p>3 more than \$10,000?</p> <p>4 A Very few. But there were some, but not a</p> <p>5 whole lot.</p> <p>6 Q Now, once you talked to your insured the</p> <p>7 first time, how many other times would you talk to</p> <p>8 the insured?</p> <p>9 A If I had more questions. It really</p> <p>10 depends on -- on the -- depends on if there was any</p> <p>11 other questions, or if the claimants had something,</p> <p>12 I just wanted to confirm with the insured.</p> <p>13 Q So you might go back to the insured and</p> <p>14 say, "I spoke to the claimant. They're saying</p> <p>15 something different," and get the insured's view</p> <p>16 again?</p> <p>17 A Correct.</p> <p>18 Q Right. And would you ever talk to the</p> <p>19 insured about what you'd learn from third-party</p> <p>20 witnesses?</p> <p>21 A Yes.</p> <p>22 Q So part of your job was really to</p> <p>23 investigate what happened?</p> <p>24 A Yes. Yes.</p> <p>25 Q Are you familiar with the concept of</p>



<p style="text-align: right;">66</p> <p>1 M. ESTRADA</p> <p>2 you can tell where the car was backed into, but</p> <p>3 you're claiming these damages. It just -- it</p> <p>4 doesn't make sense.</p> <p>5 Q So in that situation you made a</p> <p>6 determination that the insured wasn't telling the</p> <p>7 truth?</p> <p>8 A Correct.</p> <p>9 Q Okay. And you would deny coverage based</p> <p>10 on that?</p> <p>11 A No. I wouldn't deny coverage. I wouldn't</p> <p>12 pay for the damages that didn't support --</p> <p>13 Q Okay. So then you'd have to decide which</p> <p>14 damages, if any, actually supported the claim?</p> <p>15 A Yeah. And the appraiser would usually</p> <p>16 tell us, "Well, they're trying to say this damage</p> <p>17 was also caused in that accident, but I don't</p> <p>18 believe that it could have been, judging by that."</p> <p>19 Because they're the ones -- the appraiser's the ones</p> <p>20 looking at the vehicle, and they can tell, you know,</p> <p>21 if a vehicle was hit, by their experience, and say,</p> <p>22 it's not possible to cause that other damage.</p> <p>23 Q So the appraiser comes back and tells you</p> <p>24 that the damage is in a place that does make sense,</p> <p>25 in terms of the story, and then you determine, okay,</p>	<p style="text-align: right;">68</p> <p>1 M. ESTRADA</p> <p>2 Mona?</p> <p>3 A The estimates amounts; how the accident</p> <p>4 happened; you know, what I believe to be how the</p> <p>5 accident happened. I would ask her what she</p> <p>6 thought.</p> <p>7 Q So you would go to Mona and say, this is</p> <p>8 what I believe happened, and would you tell her who</p> <p>9 you thought was at fault and how much and why?</p> <p>10 A Yes.</p> <p>11 Q So you'd make a recommendation to her?</p> <p>12 A Correct.</p> <p>13 Q Okay. And did she always adopt your</p> <p>14 recommendations?</p> <p>15 A No. No. Not always.</p> <p>16 Q And can you think of any examples, sitting</p> <p>17 here today, when she didn't accept your</p> <p>18 recommendation?</p> <p>19 A Um, it's not that she just flat out</p> <p>20 didn't. She just thought, well, it's not worth it.</p> <p>21 Just go ahead and pay the whole claim.</p> <p>22 Q And how many times did that happen?</p> <p>23 A I couldn't tell you.</p> <p>24 Q More than five?</p> <p>25 A Yes. I'm sure.</p>
<p style="text-align: right;">67</p> <p>1 M. ESTRADA</p> <p>2 I'm going to go with what the appraiser says?</p> <p>3 A Correct.</p> <p>4 Q Okay. Have you had situations where the</p> <p>5 claimant is more credible, tells a story that makes</p> <p>6 more sense than what your insured is telling you?</p> <p>7 A Not that I recall, no.</p> <p>8 Q Um, usually it's by, you know, police</p> <p>9 report, if there is one, but if -- the only time I</p> <p>10 would think that would happen if the damages that</p> <p>11 the insured's saying just didn't match, if it just</p> <p>12 didn't make sense like that, then, you know, yeah, I</p> <p>13 think the claimant probably would be more credible.</p> <p>14 Q And then you'd side with the claimant --</p> <p>15 A Yes.</p> <p>16 Q -- or you'd decide that the claimant was</p> <p>17 more credible?</p> <p>18 A Yes.</p> <p>19 Q Okay. Now, what if they both had some</p> <p>20 degree of fault; what did you do then?</p> <p>21 A I would usually ask Mona, see what she</p> <p>22 thought. See if she wanted comparative negligence</p> <p>23 on that.</p> <p>24 Q You say you usually ask Mona.</p> <p>25 What information would you bring to</p>	<p style="text-align: right;">69</p> <p>1 M. ESTRADA</p> <p>2 Q How many claims did you handle that were</p> <p>3 more than \$10,000?</p> <p>4 A Very few. But there were some, but not a</p> <p>5 whole lot.</p> <p>6 Q Now, once you talked to your insured the</p> <p>7 first time, how many other times would you talk to</p> <p>8 the insured?</p> <p>9 A If I had more questions. It really</p> <p>10 depends on -- on the -- depends on if there was any</p> <p>11 other questions, or if the claimants had something,</p> <p>12 I just wanted to confirm with the insured.</p> <p>13 Q So you might go back to the insured and</p> <p>14 say, "I spoke to the claimant. They're saying</p> <p>15 something different," and get the insured's view</p> <p>16 again?</p> <p>17 A Correct.</p> <p>18 Q Right. And would you ever talk to the</p> <p>19 insured about what you'd learn from third-party</p> <p>20 witnesses?</p> <p>21 A Yes.</p> <p>22 Q So part of your job was really to</p> <p>23 investigate what happened?</p> <p>24 A Yes. Yes.</p> <p>25 Q Are you familiar with the concept of</p>

<p style="text-align: right;">70</p> <p>1 M. ESTRADA</p> <p>2 betterment?</p> <p>3 A Yeah. Isn't that like when -- take a</p> <p>4 tire, you know, a tire. We're going to give</p> <p>5 somebody a brand new tire, but the tire that they</p> <p>6 had on their vehicle before was older, a lot older,</p> <p>7 wasn't new. So you would take betterment to be more</p> <p>8 even as to what they had.</p> <p>9 Q So you would reduce what you were going to</p> <p>10 pay them?</p> <p>11 A Yes.</p> <p>12 Q And did you?</p> <p>13 A The appraiser would do that.</p> <p>14 Q The appraiser would come to you with a</p> <p>15 recommendation about that?</p> <p>16 A It would be on their -- their estimate.</p> <p>17 Q And would you make a determination as to</p> <p>18 whether to go along with what the appraiser said, or</p> <p>19 not?</p> <p>20 A I always go along with what the appraiser</p> <p>21 says.</p> <p>22 Q I understand that you're saying that you</p> <p>23 always went along with it, but each time you decided</p> <p>24 whether to go along with it or not; correct?</p> <p>25 MS. COHEN: Objection. Asked and</p>	<p style="text-align: right;">72</p> <p>1 M. ESTRADA</p> <p>2 your opinion about some of their claims?</p> <p>3 A Well, not to -- to make the decision for</p> <p>4 them. Just to say, "Hey, you know, what do you</p> <p>5 think about this? I don't know if the insured's</p> <p>6 telling the truth." You know, just talking.</p> <p>7 Q So other claims examiners were trying to</p> <p>8 make a decision about a particular claim and they</p> <p>9 might come and ask you your opinion?</p> <p>10 A Yeah.</p> <p>11 Q And did you do the same thing?</p> <p>12 A Yeah.</p> <p>13 Q So if you were trying to make a decision</p> <p>14 about a particular claim, you might seek out the</p> <p>15 opinion of one of your claims examiners; is that</p> <p>16 right?</p> <p>17 A No. Just talking to them. Just to see</p> <p>18 what they think, you know.</p> <p>19 It wasn't to -- because I couldn't</p> <p>20 make the decision. Just, you know, "Hey, what do</p> <p>21 you think about this?"</p> <p>22 Q Because you felt that you could make the</p> <p>23 decision on any particular claim?</p> <p>24 A Yeah, usually, yes.</p> <p>25 Q Were there times when -- you said for some</p>
<p style="text-align: right;">71</p> <p>1 M. ESTRADA</p> <p>2 answered.</p> <p>3 THE WITNESS: I always go with what the</p> <p>4 estimate is.</p> <p>5 BY MS. BLOOM:</p> <p>6 Q So you made a decision to always go --</p> <p>7 A I was never told not to.</p> <p>8 Q Did anybody tell you to always go with the</p> <p>9 appraiser?</p> <p>10 A No.</p> <p>11 Q So that was something that you decided for</p> <p>12 yourself, because it made sense?</p> <p>13 A It's something we always did. We were</p> <p>14 never told otherwise.</p> <p>15 Q When you say, it's something that you</p> <p>16 always did, what knowledge, if any, do you have</p> <p>17 about how other claims examiners handled an</p> <p>18 appraiser report?</p> <p>19 A By talking to them.</p> <p>20 Q Are you -- when you say "by talking to</p> <p>21 them," what do you mean by that?</p> <p>22 A We talk to each other about claims that</p> <p>23 we've had; sometimes to get an opinion from them on</p> <p>24 what they thought about it.</p> <p>25 Q So other claims examiners would seek out</p>	<p style="text-align: right;">73</p> <p>1 M. ESTRADA</p> <p>2 claims where the damage was like under a couple</p> <p>3 thousand dollars, where the insured might go out and</p> <p>4 get their own appraisal; is that right?</p> <p>5 A Yes.</p> <p>6 Q Did you get an independent appraisal in</p> <p>7 those cases, also?</p> <p>8 A No.</p> <p>9 Q And did you always agree with what the</p> <p>10 insured's appraisal said?</p> <p>11 A Yeah. Pretty much. Unless there was some</p> <p>12 obvious, um -- you know, if -- if, um, the damages</p> <p>13 are claimed on the left side and then there's</p> <p>14 something on the right side that the estimate is</p> <p>15 willing to repair, then I would call the body shop</p> <p>16 and ask them, "How does that fit with the impact</p> <p>17 over here?"</p> <p>18 Q The impact on the other side?</p> <p>19 A Correct.</p> <p>20 Q And then you might decide to pay a lesser</p> <p>21 amount?</p> <p>22 A Yeah.</p> <p>23 Q And you'd make that decision?</p> <p>24 A No. No. I would usually ask Mona what</p> <p>25 she thought, because I'm really not that great with</p>

<p style="text-align: right;">74</p> <p>1 M. ESTRADA</p> <p>2 estimates.</p> <p>3 Q So you would go to Mona and you'd say,</p> <p>4 "I've investigated. This is what I found out. This</p> <p>5 is when I think we should do. What do you think?"</p> <p>6 A Yes.</p> <p>7 Q Okay. So you'd make a recommendation?</p> <p>8 A Yes.</p> <p>9 Q Now, when you were going through this</p> <p>10 process, would you keep notes of what you were</p> <p>11 doing?</p> <p>12 A If speaking to people. Depends what type</p> <p>13 of notes.</p> <p>14 Q Did you -- every time you talked to the</p> <p>15 insured, or a claimant, or an appraiser, did you</p> <p>16 make notes of that?</p> <p>17 A Yes.</p> <p>18 Q And where did you keep those notes?</p> <p>19 A In the Apps System.</p> <p>20 Q Okay. So you kept them electronically?</p> <p>21 A Correct.</p> <p>22 Q And you kept them as you went along?</p> <p>23 A Yes.</p> <p>24 Q When you talk about the Apps system, what</p> <p>25 is the Apps system?</p>	<p style="text-align: right;">76</p> <p>1 M. ESTRADA</p> <p>2 Q Okay. So you'd make the request and then</p> <p>3 it would go to home office and they'd pay it or not</p> <p>4 pay it?</p> <p>5 A Correct.</p> <p>6 Q So you could just make the request through</p> <p>7 the Apps System?</p> <p>8 A Yes.</p> <p>9 Q The Apps System didn't calculate how much</p> <p>10 any particular claim was worth, did it?</p> <p>11 A No.</p> <p>12 Q You didn't have any software that did</p> <p>13 that?</p> <p>14 A No.</p> <p>15 Q No, you had no software that did that?</p> <p>16 A Correct.</p> <p>17 Q Okay. It did not -- the Apps System did</p> <p>18 not put a value on any particular claim; is that</p> <p>19 right?</p> <p>20 A No.</p> <p>21 Q No, it did not?</p> <p>22 A It did not.</p> <p>23 Q Did you ever have any situations where an</p> <p>24 insured claimed that their car was totalled?</p> <p>25 Do you understand what I mean by</p>
<p style="text-align: right;">75</p> <p>1 M. ESTRADA</p> <p>2 A It's where the note system is. Been so</p> <p>3 long. What else does it have?</p> <p>4 You can, um, do letters and faxes</p> <p>5 from there. Well, some forms. Like a "request</p> <p>6 appraisers" and stuff from it.</p> <p>7 Q So you could type in your notes of a</p> <p>8 conversation that you had with a claimant, an</p> <p>9 insured or a witness?</p> <p>10 A Correct.</p> <p>11 Q Okay. And you could also -- what else</p> <p>12 could you do from it?</p> <p>13 A Generate like a cover fax sheet. You can</p> <p>14 generate and request for an independent appraiser.</p> <p>15 Q Like a form letter?</p> <p>16 A Yes. You could request payment from the</p> <p>17 Apps System.</p> <p>18 Q Meaning, you could say to the Apps System,</p> <p>19 I want you to issue a check for \$4,500 to this</p> <p>20 person?</p> <p>21 A Correct.</p> <p>22 Q And then a check would be issued?</p> <p>23 A It would go to home office. They would</p> <p>24 review and approve it, or whatever they needed to</p> <p>25 do.</p>	<p style="text-align: right;">77</p> <p>1 M. ESTRADA</p> <p>2 "totalled"?</p> <p>3 A Yes.</p> <p>4 Q Okay. What do I mean by "totalled"?</p> <p>5 A Where it would cost more to repair it than</p> <p>6 what the vehicle's actually worth, or a percentage</p> <p>7 of.</p> <p>8 Q And did you have claims like that?</p> <p>9 A Yes.</p> <p>10 Q And did you have to make a determination</p> <p>11 as to whether or not the car had actually been</p> <p>12 totalled?</p> <p>13 A The appraiser usually does that.</p> <p>14 They'll -- they'll -- different states have</p> <p>15 different requirements, as far as what percentage of</p> <p>16 the vehicle value before it can be considered a</p> <p>17 total loss.</p> <p>18 Q So you would figure out what state it was</p> <p>19 and then figure out what percentage of the vehicle</p> <p>20 value loss there needed to be?</p> <p>21 A No. Once -- depending on what state it</p> <p>22 is, I send an appraiser from that state to go and do</p> <p>23 an estimate on the vehicle.</p> <p>24 If their estimate for that state</p> <p>25 exceeds the total loss threshold, then they would</p>

<p style="text-align: right;">90</p> <p>1 M. ESTRADA</p> <p>2 efficient manner.</p> <p>3 MS. BLOOM: Okay. I hear you. I think</p> <p>4 the rules are really clear. I think if you</p> <p>5 have a question about what federal stip is,</p> <p>6 either you or her, you should read the rules.</p> <p>7 And my position is that under federal</p> <p>8 stip, she can only object to the form of the</p> <p>9 question, if she truly believes there's a</p> <p>10 problem with the form of the question.</p> <p>11 And so, to the extent anything other than</p> <p>12 that occurs, you know, clearly, if I think it's</p> <p>13 becoming intrusive, we'll take whatever action</p> <p>14 we need to.</p> <p>15 Do you have an objection to us continuing</p> <p>16 the deposition? And I would also ask that only</p> <p>17 one attorney speak on the record.</p> <p>18 MR. WILEY: Well, Miss Cohen will continue</p> <p>19 to defend the deposition. I certainly have no</p> <p>20 objection to continuing.</p> <p>21 BY MS. BLOOM:</p> <p>22 Q You had the authority -- is there</p> <p>23 something funny about that?</p> <p>24 A No.</p> <p>25 Q You had the authority to pay claims that</p>	<p style="text-align: right;">92</p> <p>1 M. ESTRADA</p> <p>2 thought you agreed with what your insured was</p> <p>3 telling you about how the accident happened;</p> <p>4 correct?</p> <p>5 A Yes.</p> <p>6 Q One of the things that you were evaluating</p> <p>7 as a claims examiner in the first instance was</p> <p>8 whether there was or was not actually coverage;</p> <p>9 correct?</p> <p>10 A Yes.</p> <p>11 Q And if there was coverage, whether there</p> <p>12 was liability; correct?</p> <p>13 First you would determine coverage,</p> <p>14 and then you'd have to determine if there was</p> <p>15 liability; is that right?</p> <p>16 A Correct. Correct.</p> <p>17 Q And if you determined that there was</p> <p>18 liability, then you'd have to determine the value of</p> <p>19 the claim; correct?</p> <p>20 A Right.</p> <p>21 Q And as part of that process, you would</p> <p>22 interview your insured, right?</p> <p>23 A Yes.</p> <p>24 Q If there was -- if there were witnesses,</p> <p>25 you would interview witnesses?</p>
<p style="text-align: right;">91</p> <p>1 M. ESTRADA</p> <p>2 were under \$10,000; is that right?</p> <p>3 A Yes.</p> <p>4 Q And you didn't have to discuss that with</p> <p>5 your supervisor; correct?</p> <p>6 A Correct.</p> <p>7 Q When you got an appraiser, did you ask for</p> <p>8 pictures of the property damage?</p> <p>9 A Yeah. They would always send pictures.</p> <p>10 Q Did you look at the pictures?</p> <p>11 A Yes. Sometimes.</p> <p>12 Q And in looking at the pictures, would</p> <p>13 you -- why would you be looking at the pictures?</p> <p>14 A To see where the damages are. See what</p> <p>15 damages were caused.</p> <p>16 Q And would you want to see where the damage</p> <p>17 was?</p> <p>18 A Yes.</p> <p>19 Q And would you want to compare that with</p> <p>20 what you were being told by your insured?</p> <p>21 A Correct.</p> <p>22 Q Why?</p> <p>23 A Just to make sure that it fit -- fit the</p> <p>24 statement of what happened.</p> <p>25 Q Okay. So to make sure that -- that you</p>	<p style="text-align: right;">93</p> <p>1 M. ESTRADA</p> <p>2 A Correct.</p> <p>3 Q And you would also interview a claimant if</p> <p>4 there was somebody other than your insured involved;</p> <p>5 correct?</p> <p>6 A Correct.</p> <p>7 MS. COHEN: Objection. Asked and</p> <p>8 answered.</p> <p>9 BY MS. BLOOM:</p> <p>10 Q And other than Miss Manning, you did not</p> <p>11 help any of the other claims examiners with their</p> <p>12 claims; is that right?</p> <p>13 A Correct.</p> <p>14 Q And with regard to the help that you gave</p> <p>15 Miss Manning, that help was limited to helping her</p> <p>16 find an independent appraiser; correct?</p> <p>17 A No. No. There was other times where I</p> <p>18 helped her with other things.</p> <p>19 Q Like what?</p> <p>20 A She, um, her liability. She kind of</p> <p>21 questioned herself sometimes. And I'd kind of just</p> <p>22 help her walk through it, how the accident happened,</p> <p>23 and she figures out that she was right to begin</p> <p>24 with.</p> <p>25 Q So she was trying to determine whether</p>

<p style="text-align: right;">98</p> <p>1 M. ESTRADA</p> <p>2 Q And prior to December of 2010, were you</p> <p>3 able to access Apps remotely?</p> <p>4 A Not that I recall, no.</p> <p>5 Q After December 2010, were you able to</p> <p>6 access Apps remotely?</p> <p>7 A Yes.</p> <p>8 Q It may have been before that or it may</p> <p>9 have been after that date, but from what I recall,</p> <p>10 it was about a year before I left.</p> <p>11 Q Okay. What time did you get to the</p> <p>12 office?</p> <p>13 A Usually about 8:00.</p> <p>14 Q And what time did you leave?</p> <p>15 A 5:30, six.</p> <p>16 Q And did you keep your computer on during</p> <p>17 lunch?</p> <p>18 A Yes. It was locked so nobody could access</p> <p>19 it.</p> <p>20 Q Did you actually lock it?</p> <p>21 A Yes.</p> <p>22 Q And then you'd have to unlock it?</p> <p>23 A Yeah. I had to put in a password to</p> <p>24 unlock it.</p> <p>25 Q And how would you lock it? What would you</p>	<p style="text-align: right;">100</p> <p>1 M. ESTRADA</p> <p>2 company. I mean, I didn't -- you know, they</p> <p>3 say we have authority over 10,000, but I've</p> <p>4 never made a decision for any amount of money</p> <p>5 to pay a claim on myself. Usually it was from</p> <p>6 estimates.</p> <p>7 BY MS. BLOOM:</p> <p>8 Q Any other facts that you base your claim</p> <p>9 on that you didn't fit within what you're calling</p> <p>10 the admin?</p> <p>11 A No. I think that's pretty much -- that I</p> <p>12 can think of right now.</p> <p>13 Q And when you say that you never made a</p> <p>14 decision; you based it on estimates, those are the</p> <p>15 statements you've talked about today?</p> <p>16 A Estimates that came from appraisers.</p> <p>17 Q So when you say you never made a decision,</p> <p>18 what you mean is that you relied on the appraisers'</p> <p>19 estimates?</p> <p>20 A Correct.</p> <p>21 Q Did you mean anything else?</p> <p>22 A No.</p> <p>23 Q About how many hours of overtime do you</p> <p>24 believe that you're owed?</p> <p>25 A I don't know. I couldn't say for sure an</p>
<p style="text-align: right;">99</p> <p>1 M. ESTRADA</p> <p>2 have to do to lock it?</p> <p>3 A Control-alt-delete, I think.</p> <p>4 Q Now, you said earlier today that you are</p> <p>5 seeking overtime pay in this case?</p> <p>6 A Yes.</p> <p>7 Q What is the basis for your claim that</p> <p>8 you're entitled to overtime?</p> <p>9 A I don't understand.</p> <p>10 Q You're claiming that you should have been</p> <p>11 paid overtime?</p> <p>12 A Correct.</p> <p>13 Q Okay. Why?</p> <p>14 A Because I don't think we should have been</p> <p>15 exempt.</p> <p>16 Q And upon what facts do you base your</p> <p>17 allegation that you shouldn't have been exempt?</p> <p>18 A Because I don't think we fit the -- an</p> <p>19 admin portion of that -- I don't know what it's</p> <p>20 called.</p> <p>21 Q In what ways do you believe that you</p> <p>22 didn't fit the admin, whatever it's called?</p> <p>23 MS. COHEN: Objection. Overly broad.</p> <p>24 THE WITNESS: Because the work really -- I</p> <p>25 didn't do anything that was detrimental to the</p>	<p style="text-align: right;">101</p> <p>1 M. ESTRADA</p> <p>2 amount, a specific amount.</p> <p>3 Q If you can look at Interrogatory Number 6</p> <p>4 in Exhibit 3 and your Answer to Interrogatory Number</p> <p>5 6. Let me know when you've had a chance to read it.</p> <p>6 It's on pages 4 and 5.</p> <p>7 MS. BLOOM: Why don't you show him</p> <p>8 Interrogatory 6?</p> <p>9 MR. WILEY: You're asking for the</p> <p>10 response?</p> <p>11 MS. BLOOM: And to read the question, too.</p> <p>12 THE WITNESS: Oh, you want me to read it?</p> <p>13 MS. BLOOM: Read it to yourself, the</p> <p>14 question and the answer, and then I'm going to</p> <p>15 ask you some questions about the answer. But</p> <p>16 take whatever time you need so that you</p> <p>17 familiarize yourself with the question and the</p> <p>18 answer.</p> <p>19 THE WITNESS: Okay.</p> <p>20 Okay.</p> <p>21 BY MS. BLOOM:</p> <p>22 Q So in Interrogatory Number 6, you were</p> <p>23 asked about the damages that you're claiming in this</p> <p>24 case.</p> <p>25 Did you understand that?</p>

<p style="text-align: right;">102</p> <p>1 W. BENECKE</p> <p>2 MR. ALLOY: You can answer.</p> <p>3 THE WITNESS: It's a confusing question.</p> <p>4 I think it's a two-part question.</p> <p>5 BY MR. WILEY:</p> <p>6 Q My question is whether or not you're aware</p> <p>7 of whether or not they had a pay practice of any of</p> <p>8 your prior employers where they were paying claims</p> <p>9 adjusters or claims examiners by the hour with</p> <p>10 overtime? (sic)</p> <p>11 MR. ALLOY: Objection. You can answer.</p> <p>12 THE WITNESS: I am aware of how the claims</p> <p>13 examiners were paid. So the answer to that is</p> <p>14 yes, I am aware of how they were paid. And --</p> <p>15 BY MR. WILEY:</p> <p>16 Q Then my second question would be --</p> <p>17 A -- none of them were paid as a -- as</p> <p>18 someone that would be entitled to overtime or on an</p> <p>19 hourly basis.</p> <p>20 Q All right. Before lunch, we had been</p> <p>21 talking about the process by which claims examiners</p> <p>22 process claims. I'm going to talk some more about</p> <p>23 that.</p> <p>24 We were going to talk about outside</p> <p>25 vendors. I think you had identified appraisers,</p>	<p style="text-align: right;">104</p> <p>1 W. BENECKE</p> <p>2 appropriate or necessary for the particular claim,</p> <p>3 they may engage or hire an independent contractor to</p> <p>4 go out, take photos of the damages, and write up an</p> <p>5 estimate; to then submit those photos and estimate</p> <p>6 to the claims examiner for the claims examiner to</p> <p>7 then review, evaluate and make judgments from.</p> <p>8 Q Now, the claims examiners, themselves, did</p> <p>9 not physically examine the vehicle; isn't that</p> <p>10 correct?</p> <p>11 A Yes.</p> <p>12 Q Okay. And they were not, themselves,</p> <p>13 estimators or appraisers; isn't that correct?</p> <p>14 A That's not always entirely true.</p> <p>15 Q Can you tell me any of the Fast Track</p> <p>16 claims adjusters who were, in fact, appraisers?</p> <p>17 A There may be -- there may be some in the</p> <p>18 staff that are -- that were licensed appraisers, or</p> <p>19 had trained and worked as appraisers in a prior</p> <p>20 company or a prior job.</p> <p>21 Q So some of them may have been familiar</p> <p>22 with appraising, but that wasn't why you hired them</p> <p>23 to come work at Maguire. They were supposed to</p> <p>24 process these claims; correct?</p> <p>25 A No, I wouldn't say that. I would</p>
<p style="text-align: right;">103</p> <p>1 W. BENECKE</p> <p>2 independent adjusters, and there was one -- oh,</p> <p>3 private investigators as outside vendors.</p> <p>4 A Yes.</p> <p>5 Q Okay. Tell me what an appraiser is.</p> <p>6 A In what context?</p> <p>7 Q Well, I think you had said that the next</p> <p>8 step after the investigation was to see whether or</p> <p>9 not claims examiners want to hire outside vendors</p> <p>10 and you had identified appraisers, PI's and</p> <p>11 independent adjusters.</p> <p>12 So my question is: When you say</p> <p>13 "appraisers," what did you mean?</p> <p>14 A I'm sorry. I'm just looking for</p> <p>15 clarification --</p> <p>16 Q In the context of a Fast Track --</p> <p>17 A In the context of Philadelphia Insurance</p> <p>18 Company?</p> <p>19 Q At Maguire, yeah.</p> <p>20 A Okay.</p> <p>21 Q Forget wherever else you worked. We're</p> <p>22 back to Maguire. And that's what these questions</p> <p>23 will all relate to.</p> <p>24 A Okay. An appraiser is an independent</p> <p>25 contractor that if the claims examiner determines it</p>	<p style="text-align: right;">105</p> <p>1 W. BENECKE</p> <p>2 definitely not say that that's not why we hired them</p> <p>3 for the job.</p> <p>4 It is -- it was an added positive for</p> <p>5 a candidate that they had estimating an appraiser's</p> <p>6 skills because they would bring that skill-set to</p> <p>7 the job that they were required to do, in the claims</p> <p>8 examiner job for the company, when they're receiving</p> <p>9 estimates from body shops and the independent</p> <p>10 appraisers to understand better and more educated</p> <p>11 what they're looking at and to do it more</p> <p>12 efficiently.</p> <p>13 Q It was not a job requirement, however,</p> <p>14 though, that someone be an appraiser in order to be</p> <p>15 a claims examiner; correct?</p> <p>16 A It was an added plus, but not a job</p> <p>17 requirement.</p> <p>18 Q So in the absence of -- well, let me ask</p> <p>19 you this: Wouldn't Mr. Estrada have to hire an</p> <p>20 appraiser in every case so that he would know how</p> <p>21 much to pay?</p> <p>22 A No.</p> <p>23 Q And how is it that Mr. Estrada could</p> <p>24 possibly know how much to pay if he didn't hire an</p> <p>25 appraiser?</p>



<p style="text-align: right;">106</p> <p>1 M. ESTRADA</p> <p>2 A No. No. Not every week.</p> <p>3 Q Are you claiming -- you're claiming how</p> <p>4 much; what percentage of weeks?</p> <p>5 A Seventy-five.</p> <p>6 Q And do you have any records that would</p> <p>7 reflect that?</p> <p>8 A No.</p> <p>9 Q And sitting here today, do you know that</p> <p>10 or are you just guessing?</p> <p>11 A Just guessing. Just a guess, approximate.</p> <p>12 Q And is the same true for 2011?</p> <p>13 A Correct.</p> <p>14 Q And when you say three to four hours a</p> <p>15 week, three to four hours over what total number of</p> <p>16 hours a week? Are you claim -- strike that.</p> <p>17 Are you claiming you had to work a</p> <p>18 minimum number of hours in order to get overtime?</p> <p>19 A Yes. Thirty-seven and a half hours, I</p> <p>20 believe is what we had to work.</p> <p>21 Q So when you're saying three to four hours</p> <p>22 a week, you're saying three to four hours a week</p> <p>23 over 37 and a half hours?</p> <p>24 A Correct.</p> <p>25 Q And is that the same for 2010, when you</p>	<p style="text-align: right;">108</p> <p>1 M. ESTRADA</p> <p>2 Q Is that -- would that be three weeks,</p> <p>3 total?</p> <p>4 A Yes. You could buy a week's vacation.</p> <p>5 Q So you got two weeks, and then you could</p> <p>6 buy another week?</p> <p>7 A Correct.</p> <p>8 Q Would it also be true that during your</p> <p>9 additional week in 2009, '10 and '11, you did not</p> <p>10 work when you were on vacation?</p> <p>11 A Correct.</p> <p>12 Q You resigned in December of 2011; is that</p> <p>13 correct?</p> <p>14 A Yes.</p> <p>15 Q When was your last day of work?</p> <p>16 A December 29th, I believe.</p> <p>17 Q So you did not work in January of 2012;</p> <p>18 correct?</p> <p>19 A No.</p> <p>20 Q No, you didn't work?</p> <p>21 A Not that I recall, no. I don't believe I</p> <p>22 did.</p> <p>23 Q And you didn't work in February of 2012;</p> <p>24 is that right?</p> <p>25 A Correct.</p>
<p style="text-align: right;">107</p> <p>1 M. ESTRADA</p> <p>2 say five to six hours?</p> <p>3 A Yes.</p> <p>4 Q And the same for 2011?</p> <p>5 A Yes.</p> <p>6 Q So the base is 37 and a half hours?</p> <p>7 A Correct.</p> <p>8 Q And you understood when you took the job</p> <p>9 that regardless of whether you worked 37 and a half</p> <p>10 hours, 40 hours, 45 hours or 25 hours, you'd get the</p> <p>11 same salary?</p> <p>12 A Correct.</p> <p>13 Q And you knew you wouldn't get docked if</p> <p>14 you worked less than 37 and a half hours?</p> <p>15 A Yes. Correct.</p> <p>16 Q Can you purchase additional vacation days?</p> <p>17 A Yes.</p> <p>18 Q And did you do that?</p> <p>19 A Yes.</p> <p>20 Q How much vacation did you take in 2009?</p> <p>21 A Three weeks, I believe.</p> <p>22 Q And how about in 2010?</p> <p>23 A Three weeks, again.</p> <p>24 Q And how about in 2011?</p> <p>25 A I believe also three weeks.</p>	<p style="text-align: right;">109</p> <p>1 M. ESTRADA</p> <p>2 Q Okay. If you could look at Exhibit 2,</p> <p>3 which is your complaint.</p> <p>4 On page 12, the complaint is dated</p> <p>5 February 3rd of 2012.</p> <p>6 A Uh-huh.</p> <p>7 Q As of February 3rd of 2012, you were no</p> <p>8 longer working for the company; is that right?</p> <p>9 A That's correct.</p> <p>10 Q So if you can look at page 3, paragraph 8.</p> <p>11 Why don't you read that paragraph to</p> <p>12 yourself?</p> <p>13 A Okay.</p> <p>14 Q It says in the second sentence between</p> <p>15 June 9th, 2008 and current.</p> <p>16 As of February 3rd of 2012, you were</p> <p>17 no longer employed; correct?</p> <p>18 A Correct.</p> <p>19 Q So that statement in your complaint is</p> <p>20 inaccurate; is that right?</p> <p>21 A Yes, it is.</p> <p>22 Q Can you look at the first page of your</p> <p>23 complaint, please?</p> <p>24 A Okay.</p> <p>25 Q In the first paragraph, you talk about</p>

<p style="text-align: right;">122</p> <p>1 M. ESTRADA</p> <p>2 read it and discussed the content with your manager;</p> <p>3 is that right?</p> <p>4 A Correct.</p> <p>5 Q It says here, "My signature means that</p> <p>6 I've been advised of my performance status and does</p> <p>7 not necessarily imply that I agree with the</p> <p>8 evaluation."</p> <p>9 Do you see that?</p> <p>10 A Yes.</p> <p>11 Q Did you agree with the evaluation?</p> <p>12 A Yeah. For the most part, yeah.</p> <p>13 Q Was there anything in the evaluation that</p> <p>14 you thought was inaccurate?</p> <p>15 A I don't know if it was on this one or</p> <p>16 another one. I'd have to go through the whole</p> <p>17 thing.</p> <p>18 Q If you would do that, please?</p> <p>19 A Okay.</p> <p>20 Q And if you see something that you don't</p> <p>21 agree with or you believe it is inaccurate, if you</p> <p>22 can point it out at the time that you see it, I</p> <p>23 think it will be easier.</p> <p>24 A Okay. I will.</p> <p>25 I don't believe it was on that one.</p>	<p style="text-align: right;">124</p> <p>1 M. ESTRADA</p> <p>2 calculated the fees that the insured or claimant is</p> <p>3 due when their vehicle is a total loss.</p> <p>4 Q Explain to me exactly what it was.</p> <p>5 A It's an Excel spreadsheet. You put in the</p> <p>6 vehicle information, the state, and it would</p> <p>7 calculate -- you put in, you know, like the three</p> <p>8 different, um, vehicles that are -- oh, shoot, how</p> <p>9 do you say -- comparative vehicles.</p> <p>10 When a vehicle is a total loss, the</p> <p>11 appraiser will get a couple of other vehicles that</p> <p>12 were the same year, make and model, same -- possibly</p> <p>13 same mileage of what their selling for, to kind of</p> <p>14 determine a fair market value for the vehicle.</p> <p>15 Usually two, and then you average those out. And</p> <p>16 the spreadsheet just does it all for you. It just</p> <p>17 gives you a total at the bottom.</p> <p>18 Q So you designed the spreadsheet?</p> <p>19 A Yeah.</p> <p>20 Q Was this how you would determine how much</p> <p>21 a total loss was?</p> <p>22 A Yes.</p> <p>23 Q It's a formula that you used?</p> <p>24 A Yeah. Working with Mona. She's the one</p> <p>25 who helped me with a lot of the information, because</p>
<p style="text-align: right;">123</p> <p>1 M. ESTRADA</p> <p>2 It may be on the other one.</p> <p>3 Q Well, I'd like you to make sure you go</p> <p>4 through it.</p> <p>5 A It's not on this one.</p> <p>6 Q So would it be -- so you agreed with</p> <p>7 everything in this evaluation?</p> <p>8 A Correct, yes.</p> <p>9 Q And you believe this evaluation accurately</p> <p>10 reflected your performance?</p> <p>11 A Yes.</p> <p>12 Q And accurately reflected what you were</p> <p>13 doing in your job?</p> <p>14 A Yes.</p> <p>15 Q I did have one question for you.</p> <p>16 A Okay.</p> <p>17 Q I'll refer to it by the Bates number:</p> <p>18 MAG000097, under Analytical Skills.</p> <p>19 A Yes.</p> <p>20 Q It says, "He has designed innovative and</p> <p>21 effective work flows and procedures."</p> <p>22 What was it that you designed?</p> <p>23 A Excel spreadsheets.</p> <p>24 Q What kind of Excel spreadsheets?</p> <p>25 A There was one for total losses. It just</p>	<p style="text-align: right;">125</p> <p>1 M. ESTRADA</p> <p>2 it would go by different states.</p> <p>3 Q Right. So you had to -- so the different</p> <p>4 states determined what the comparative value would</p> <p>5 be?</p> <p>6 A No. It would determine how much they</p> <p>7 would get as far as taxes. If they're due</p> <p>8 registration fees. There's just different</p> <p>9 guidelines states have on a total loss.</p> <p>10 Q And then you developed this Excel</p> <p>11 spreadsheet?</p> <p>12 A Yeah.</p> <p>13 Q And do people use it besides you?</p> <p>14 A As far as I know, a couple of people</p> <p>15 there.</p> <p>16 Q It says on the first page that you're</p> <p>17 taking a course in negotiating techniques. It</p> <p>18 actually says, "Negotiating techniques in progress."</p> <p>19 A No courses.</p> <p>20 Q Do you know what that refers to?</p> <p>21 A I have no idea. I didn't take any</p> <p>22 negotiating courses, that I can recall.</p> <p>23 Q Did you do anything online, on the</p> <p>24 computer?</p> <p>25 A No.</p>



<p style="text-align: right;">158</p> <p>1 M. ESTRADA</p> <p>2 Q Yes.</p> <p>3 A Just money I have.</p> <p>4 Q Who's paying for the deposition today, for</p> <p>5 the transcript?</p> <p>6 A My attorney's office.</p> <p>7 Q And you've given your attorneys no money</p> <p>8 to date?</p> <p>9 A Correct.</p> <p>10 Q Did anybody ever tell you to come in on a</p> <p>11 weekend?</p> <p>12 A No.</p> <p>13 Q Did anybody know you would come in on a</p> <p>14 weekend?</p> <p>15 A Yes.</p> <p>16 Q Who?</p> <p>17 A Mona, Vicky, Shakelia.</p> <p>18 Q How did Mona know?</p> <p>19 A She's seen me there.</p> <p>20 Q How many times?</p> <p>21 A I don't recall.</p> <p>22 Q When a claim is first opened, is there a</p> <p>23 reserve set for the claim?</p> <p>24 A Yes.</p> <p>25 Q Who sets the reserve?</p>	<p style="text-align: right;">160</p> <p>1 M. ESTRADA</p> <p>2 kind of get an idea of about what the amount is</p> <p>3 going to be as far as damages. You know, a parking</p> <p>4 lot accident isn't going to go over a couple of</p> <p>5 thousand.</p> <p>6 Q So it's something that after awhile you</p> <p>7 just know --</p> <p>8 A Yeah.</p> <p>9 Q -- intuitively?</p> <p>10 A You just kind of assume it's going to be</p> <p>11 close to what you had before.</p> <p>12 Q So your experience let's you -- gives you</p> <p>13 the judgment to know how much to assign to it; is</p> <p>14 that right?</p> <p>15 A Yeah.</p> <p>16 Q And then -- do you ever alter it again in</p> <p>17 the process before the claim is paid?</p> <p>18 A I never have.</p> <p>19 Q Did you ever look back to see whether your</p> <p>20 judgment had been close to what was actually paid?</p> <p>21 A No.</p> <p>22 Q Any sense of that?</p> <p>23 A No.</p> <p>24 Q When you would get an appraisal from a</p> <p>25 third-party appraiser and they would tell you what</p>
<p style="text-align: right;">159</p> <p>1 M. ESTRADA</p> <p>2 A I believe home office does.</p> <p>3 Q And then as you investigate the claim,</p> <p>4 you're supposed to re-evaluate whether the reserve</p> <p>5 is sufficient or not?</p> <p>6 A Correct.</p> <p>7 Q Is that right?</p> <p>8 And that's something that a claims</p> <p>9 examiner like you does; is that right?</p> <p>10 A Yes.</p> <p>11 Q And what factors do you consider in</p> <p>12 deciding whether the reserve is sufficient?</p> <p>13 A Based on how severe the accident was.</p> <p>14 Usually their reserve is \$777. It's a really low</p> <p>15 number. It always has to be changed.</p> <p>16 Q And you would be, for your claims, the</p> <p>17 person who decided how much to increase it?</p> <p>18 A Correct.</p> <p>19 Q And did you increase it in almost every</p> <p>20 situation?</p> <p>21 A Yeah. We had to increase it every time.</p> <p>22 Q And did you always increase it the same</p> <p>23 amount?</p> <p>24 A Sometimes. Really, it's based on previous</p> <p>25 claims that I might have had that were similar. You</p>	<p style="text-align: right;">161</p> <p>1 M. ESTRADA</p> <p>2 they thought the damage was, it was then up to you,</p> <p>3 if you were in a comparative negligence</p> <p>4 jurisdiction, to determine what percentage should be</p> <p>5 apportioned to each party, right?</p> <p>6 A Yeah.</p> <p>7 Q The appraiser did not do that; correct?</p> <p>8 A No.</p> <p>9 Q When you said that you took your calendar</p> <p>10 with you, what calendar are you talking about?</p> <p>11 A It's just a little black calendar for the</p> <p>12 year.</p> <p>13 Q What kind of information was on it?</p> <p>14 A How many claims I got in the day and, you</p> <p>15 know, if I was off, I'd mark it off for vacation.</p> <p>16 If Shakelia was off, I'd put down that she was going</p> <p>17 to be off that day, so I'd know to expect more</p> <p>18 claims that day than normal.</p> <p>19 Q Did you note if anybody else other than</p> <p>20 Shakelia was out?</p> <p>21 A Yeah. Everybody in the group.</p> <p>22 If I had prior notice that they were</p> <p>23 going to be out.</p> <p>24 (Estrada-12, Calendar excerpts, was</p> <p>25 received and marked for identification at this</p>

<p style="text-align: right;">166</p> <p>1 M. ESTRADA</p> <p>2 a serious issue that we'll need to take up with</p> <p>3 the court, because this was proffered in</p> <p>4 support of a motion for conditional cert.</p> <p>5 And so my question to him was, what</p> <p>6 information he provided that's in Exhibit-13.</p> <p>7 Are you directing him not to answer that</p> <p>8 question?</p> <p>9 MS. COHEN: Yes.</p> <p>10 BY MS. BLOOM:</p> <p>11 Q Do you believe that Exhibit-13 is</p> <p>12 accurate?</p> <p>13 A Somewhat. To the best of my knowledge.</p> <p>14 Q When you say somewhat, what does that</p> <p>15 mean?</p> <p>16 A To the best of my knowledge. I haven't</p> <p>17 gone through it and read it to double-check it.</p> <p>18 Q When you signed it, did you go through and</p> <p>19 read it?</p> <p>20 A I did.</p> <p>21 Q And when you signed it, were you swearing</p> <p>22 that everything in this was accurate?</p> <p>23 A To the best of my knowledge at the time,</p> <p>24 yes.</p> <p>25 Q Did you make any -- did you see a draft of</p>	<p style="text-align: right;">168</p> <p>1 M. ESTRADA</p> <p>2 Q Well, if you look back at your Answers to</p> <p>3 Interrogatories, Exhibit Number 3, Interrogatory</p> <p>4 Number 6 and your Answer to Interrogatory Number</p> <p>5 6 --</p> <p>6 A Mm-hmm.</p> <p>7 Q -- you swore that in 2009 you worked five</p> <p>8 to six hours of overtime a week. In 2010, seven to</p> <p>9 ten hours of overtime per-week. I'm sorry. Strike</p> <p>10 that.</p> <p>11 You swore that you worked three to</p> <p>12 four hours of overtime per-week in 2009.</p> <p>13 A Mm-hmm.</p> <p>14 Q Five to six hours of overtime per-week in</p> <p>15 2010.</p> <p>16 And, approximately, seven to ten</p> <p>17 hours of overtime per-week in 2011.</p> <p>18 So can you tell me how with those</p> <p>19 sworn answers you get to a sworn statement of an</p> <p>20 average of 50 hours a week?</p> <p>21 A It was just based on when I was last</p> <p>22 there, when I was working, while I was there.</p> <p>23 Q So can you just --</p> <p>24 A So the 2011, you know, on the</p> <p>25 interrogatory it says from -- what did you say it</p>
<p style="text-align: right;">167</p> <p>1 M. ESTRADA</p> <p>2 it before the final?</p> <p>3 A Yes.</p> <p>4 Q Did you make any changes to the draft?</p> <p>5 MS. COHEN: Objection. Privileged.</p> <p>6 MS. BLOOM: He can answer that yes or no.</p> <p>7 That's not privileged.</p> <p>8 MS. COHEN: No. Don't answer it.</p> <p>9 MS. BLOOM: Can you just mark this section</p> <p>10 for me?</p> <p>11 BY MS. BLOOM:</p> <p>12 Q Looking at Exhibit-13 right now, is there</p> <p>13 anything in it that you believe is not accurate?</p> <p>14 A May I kind of go through all this?</p> <p>15 Q Of course.</p> <p>16 A It looks to be okay.</p> <p>17 Q If you look at paragraph 3 on the first</p> <p>18 page --</p> <p>19 A Mm-hmm.</p> <p>20 Q -- it says, "I typically worked an average</p> <p>21 of 50 hours per-week."</p> <p>22 Do you see that statement?</p> <p>23 A Yes.</p> <p>24 Q How did you come up with that number?</p> <p>25 A It's just an approximation.</p>	<p style="text-align: right;">169</p> <p>1 M. ESTRADA</p> <p>2 was? From seven -- I'm sorry.</p> <p>3 It was for the week of 2011, seven to</p> <p>4 ten hours of overtime. (sic) I was basing it off of</p> <p>5 that.</p> <p>6 Q So if you're saying that you worked an</p> <p>7 average of 50 hours a week based on seven to ten</p> <p>8 hours of overtime a week, so what you're saying in</p> <p>9 paragraph 3 -- strike that.</p> <p>10 I want to make sure I understand your</p> <p>11 testimony.</p> <p>12 You're saying that the statement in</p> <p>13 the declaration that you filed with the court where</p> <p>14 you said, "I typically worked an average of 50 hours</p> <p>15 per-week" was only intended to pertain to the</p> <p>16 year 2011?</p> <p>17 A Correct. But I was working at the time.</p> <p>18 I didn't think about the years before where we</p> <p>19 weren't getting as many claims as we were now.</p> <p>20 Q When you say you were working at the time</p> <p>21 though, the declaration, the court declaration that</p> <p>22 you signed was signed on April 13 of 2012; you were</p> <p>23 no longer working for the company, right?</p> <p>24 A Right.</p> <p>25 Q And you hadn't worked for the company in</p>

<p style="text-align: right;">170</p> <p>1 M. ESTRADA</p> <p>2 at least four months, right?</p> <p>3 A Right.</p> <p>4 Q Okay. So I just want to make sure that I</p> <p>5 understand --</p> <p>6 A No, I --</p> <p>7 Q -- so that I can understand what all your</p> <p>8 sworn testimony is.</p> <p>9 So the statement in the court</p> <p>10 declaration of the average of 50 hours a week was</p> <p>11 referring only to the year 2011?</p> <p>12 A I was just thinking about that last year.</p> <p>13 Q The last year, okay.</p> <p>14 A That I was working. I wasn't thinking as</p> <p>15 to years before where we didn't have as many claims.</p> <p>16 I didn't need to work that much.</p> <p>17 Q Okay. And you got to 50 hours a week.</p> <p>18 You got to an average of 50 hours a week. That</p> <p>19 would imply that some weeks you worked less than 50</p> <p>20 hours, and some weeks you worked more than 50 hours;</p> <p>21 correct?</p> <p>22 A Correct.</p> <p>23 Q And in your Answers to Interrogatories,</p> <p>24 you said that you worked an average of seven to ten</p> <p>25 hours of overtime?</p>	<p style="text-align: right;">172</p> <p>1 M. ESTRADA</p> <p>2 Q And just so that I understand, when we</p> <p>3 were looking at your complaint, which was Exhibit-2,</p> <p>4 filed in February of 2012, when you represented to</p> <p>5 the court that you were still employed by the</p> <p>6 company, that also was an inaccurate statement;</p> <p>7 correct?</p> <p>8 A Right.</p> <p>9 Q If you look at Exhibit-2 again, your</p> <p>10 complaint -- if you could pull it out, please?</p> <p>11 A Yes.</p> <p>12 Q If you look at paragraph 11, do you see</p> <p>13 paragraph 11 on page 4?</p> <p>14 A Yes.</p> <p>15 Q In the second line it said, "Plaintiffs</p> <p>16 seek injunctive and declaratory relief."</p> <p>17 Do you know what the term</p> <p>18 "injunctive" means?</p> <p>19 A No.</p> <p>20 Q If the ultimate outcome of this lawsuit</p> <p>21 was that any current claims examiners handling Fast</p> <p>22 Track claims were reclassified and became</p> <p>23 non-exempt, but there was no money awarded, would</p> <p>24 you still be interested in pursuing this?</p> <p>25 A Yes.</p>
<p style="text-align: right;">171</p> <p>1 M. ESTRADA</p> <p>2 A A week.</p> <p>3 Q Okay. So can you explain to me how you</p> <p>4 get to 50 hours a week based on seven to ten hours</p> <p>5 of over time?</p> <p>6 A From three-and-a-half hours that we had to</p> <p>7 work to ten hours more -- well, 47. I was thinking</p> <p>8 40 to ten hours, would be 50.</p> <p>9 Q And so that would be -- so there are no</p> <p>10 hours that you worked more than 50 hours, right?</p> <p>11 A That I'm aware of, no. I honestly don't</p> <p>12 have an exact number. I didn't keep track of it.</p> <p>13 Q Okay. So when you said -- when you told</p> <p>14 the court it was an average of 50 hours a week, what</p> <p>15 you really meant was you never -- you didn't work</p> <p>16 more than 50 hours a week in the year 2011, and for</p> <p>17 the years before that, you worked less; correct?</p> <p>18 A Something like that.</p> <p>19 Q Okay.</p> <p>20 A But at the time I didn't realize, I wasn't</p> <p>21 thinking about the entire three years.</p> <p>22 Q You understood, though, that Exhibit-13</p> <p>23 was a sworn statement that was being given to a</p> <p>24 federal judge?</p> <p>25 A Yes.</p>	<p style="text-align: right;">173</p> <p>1 M. ESTRADA</p> <p>2 Q Even if you got no money?</p> <p>3 A Correct.</p> <p>4 Q Why?</p> <p>5 A Because it's not right. I mean,</p> <p>6 especially the amount of hours we had to work. It</p> <p>7 was ridiculous trying to keep up with the amount of</p> <p>8 work that we had.</p> <p>9 Q Are you familiar with the term "hidden</p> <p>10 damage"?</p> <p>11 A Yes.</p> <p>12 Q What is hidden damage?</p> <p>13 A Damage that isn't seen right away.</p> <p>14 Q And how does hidden damage impact an</p> <p>15 estimate?</p> <p>16 A Whenever the vehicle's taken into the body</p> <p>17 shop to be repaired, once they start removing the --</p> <p>18 like the bumper and stuff, there could be damage</p> <p>19 underneath that was not seen by the appraisers. So</p> <p>20 it could potentially cause more damage -- well, more</p> <p>21 cost to repair the damages.</p> <p>22 Q And what is your role with regard to --</p> <p>23 what was your role with regard to handling hidden</p> <p>24 damage?</p> <p>25 A The appraiser handled that. They would go</p>

<p style="text-align: right;">182</p> <p>1 M. ESTRADA</p> <p>2 you were doing?</p> <p>3 A Right.</p> <p>4 Q Okay. And when you say that you took it</p> <p>5 from United Auto, when we were looking a few minutes</p> <p>6 ago at your first resume that we marked as</p> <p>7 Exhibit-15, which you testified was accurate, you</p> <p>8 took language from -- you used language about your</p> <p>9 job at United Auto and put it into Exhibit-11, and</p> <p>10 then used that language to further describe your job</p> <p>11 at the defendant; correct?</p> <p>12 A Yeah.</p> <p>13 Q And you would agree with me that the</p> <p>14 second bullet point under the description of your</p> <p>15 job at the defendant is language that you added;</p> <p>16 correct?</p> <p>17 A From this United Auto Insurance.</p> <p>18 Q Well, you took it from -- because it was</p> <p>19 something that you did at both places?</p> <p>20 A Right.</p> <p>21 Q Okay. And now the third bullet, that</p> <p>22 seems to come, again from Exhibit-14, from the job</p> <p>23 description; the fourth and fifth paragraphs under</p> <p>24 "essential duties and responsibilities." Correct?</p> <p>25 A Correct.</p>	<p style="text-align: right;">184</p> <p>1 M. ESTRADA</p> <p>2 Q And that also describes something else</p> <p>3 that you did -- another product that you say that</p> <p>4 you created; correct?</p> <p>5 A Yes.</p> <p>6 MS. BLOOM: Thank you very much.</p> <p>7 Subject to a court ruling on the things</p> <p>8 that you were directed not to answer, I have no</p> <p>9 further questions at this time.</p> <p>10 THE WITNESS: Thank you.</p> <p>11 MS. COHEN: We reserve our questions at</p> <p>12 time of trial.</p> <p>13 MR. WILEY: We're done.</p> <p>14 MS. BLOOM: That's fine. As long as you</p> <p>15 understand what that means under the federal</p> <p>16 rules, that's fine with me.</p> <p>17 MR. WILEY: We'll read.</p> <p>18 (Witness excused.)</p> <p>19 (The deposition is adjourned at 2:58 p.m.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">183</p> <p>1 M. ESTRADA</p> <p>2 Q And then the fourth bullet on Exhibit-11</p> <p>3 that starts, "Created a standardized total loss</p> <p>4 evaluation form that has saved the company thousands</p> <p>5 of dollars in total loss negotiations." You added</p> <p>6 that bullet; correct?</p> <p>7 A Correct.</p> <p>8 Q And that's the form that you described</p> <p>9 earlier today; correct?</p> <p>10 A That's correct.</p> <p>11 Q And you go on to say in that bullet, "This</p> <p>12 form has a success rate of nine out of ten agreeing</p> <p>13 to the total loss offer amount presented with</p> <p>14 minimal negotiations needed."</p> <p>15 That's your language; correct?</p> <p>16 A Correct.</p> <p>17 Q So by using your form, that basically --</p> <p>18 that minimized the amount of negotiation that the</p> <p>19 claims examiners needed to engage in; correct?</p> <p>20 A Correct.</p> <p>21 Q And then the last bullet, "Created a zip</p> <p>22 code or by state searchable workbook for independent</p> <p>23 appraisal companies," you added that entire bullet,</p> <p>24 as well; isn't that right?</p> <p>25 A That's correct.</p>	<p style="text-align: right;">185</p> <p>1 C E R T I F I C A T I O N</p> <p>2</p> <p>3 I, CORINNE J. BLAIR, a Certified</p> <p>4 Realtime Reporter, Certified Professional Reporter,</p> <p>5 Certified Livenote Reporter, and Notary Public, do</p> <p>6 hereby certify:</p> <p>7 That MICHAEL ESTRADA, the witness,</p> <p>8 whose deposition is hereinbefore set forth, was duly</p> <p>9 sworn by me and that such deposition is a true</p> <p>10 record of the testimony given by such witness.</p> <p>11 I further certify that I am not</p> <p>12 related to any of the parties to this action by</p> <p>13 blood or marriage and that I am in no way interested</p> <p>14 in the outcome of this matter.</p> <p>15</p> <p>16</p> <p>17</p> <p>18 CORINNE J. BLAIR,</p> <p>19 CRR, CCR, RPR, CLR</p> <p>20 License # X01641</p> <p>21 Expires 6/30/14</p> <p>22</p> <p>23</p> <p>24</p> <p>25 Dated: _____</p>